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EXAMINER

SIDDIQI, MOHAMMAD A

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/738,852	Applicant(s) HORTON ET AL.	
	Examiner MOHAMMAD A. SIDDIQI	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1-18 are presented for examination.

Specification

2. In the disclosure, page 7, line 2, refers "Application Serial No. 09/620,047, filed in July of 2000 by Krack and Condon " , please update with the current status.

3. Independent claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims raises a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful and tangible result. The various elements network listening program, a table on server, access control manager program, and a linking program are software constructs performing various functionalities. These functionalities do not manipulate any hardware or tangible entity. The claimed invention is a compilation or arrangement of data or listing independent of any physical element. Therefore, these

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software constructs are non statutory entities as detailed in MPEP 2106.

Suggestion would be physical component of computer.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 13, and 14 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended limitation, "wherein more than one of said plurality of versions of a said software application is executing on said server and available to service requests from users on said server", is not described in the original filed disclosure. On page 7 and 12 of the disclosure describes in two preferred embodiment ACM or linking program spawns the server process to handle the request and response. It is not clear to the whether all

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the versions of the software application are executing on the different site or they will be spawned at the when the request arrives.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1, 3-11, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciarlante et al. (6,532,488) (Hereinafter Ciarlante) in view of Nishiyama et al. (5,859,977) (Hereinafter Nishiyama).

8. As per claim 1 and 13, Ciarlante discloses a System for assigning, each one of a plurality of versions of a software application (12, fig 1) to specific requests from specific users handled by a server (hosting system , 10, fig 1, col 3, lines 39-64), wherein more than one of said plurality of versions of a said software application is executing on said server and available to service requests from users on said server (ISV1-ISV3, 6, fig 1, col 3, lines 39-64), and wherein said specific users (8, fig 1) are provided access to said server

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by issuing requests to said server (10, fig 1), and wherein said requests have a SiteID (url, col 9, line 15) code in each said request (col 8, line 42 – col 9, line 20), said system comprising:

a network listening program (10, fig 1, col 4, lines 39-64) for receiving said requests by said users for use of a said software application (App1, ISV1, fig 1) program (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20),

a table (10, fig 1) on said server (10, fig 1) containing correspondences between ones of a plurality of sites and ones of said SiteID codes (12, fig 1) said correspondences logically connecting a one of said more than one version of a said software application program to a one of said plurality of sites (12, fig 1) indicated by said SiteID code (url, col 8, line 42 – col 9, line 20), wherein said one of said plurality of sites has only one of said more than one version of a said software application program and at least one data area (elements of Fig 1, col 8, line 42 – col 9, line 20),

an access control manager program for determining which one of said more than one version of a said software application program should service to each user request by reference to said table (col 10, lines 25-47),

a linking program for passing each request (10, fig 1, col 4, lines 39-64) to a respective one of said sites based on the determination by said access control manager so that the determined site processes the request

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and generates a response to the request (elements of Fig 1, col 8, line 42 – col 9, line 20).

Although Ciarlante shows substantial features of the claimed invention, Ciarlante does not particularly point out an application hosting system (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20) host a plurality of versions of the same application software of the same vendor (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20). Nonetheless this feature depends on the vendor of the software application provider, if software application provider wants to host the different version of the same application on different server, the prior art provides the structure of servicing the access of the different application. Ciarlante fails to disclose plurality versions of a software application and accessing by SiteID, and table containing SiteID. However, Nishiyama shows a system a system maintenance and management of different version of the same application, and also provide details of site management functions with table containing SiteID (fig 3 and fig 14, col 7, line 42 to col 8, line 52). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the detailed teachings of site management of Nishiyama into the software application hosting system taught by Ciarlante to provide access to different copies of software application over a wide area network.

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9. As per claim 3, the claim is rejected for the same reasons as claim 1, above. In addition, Ciarlante discloses wherein said access control manager program is part of said network listening program (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

10. As per claim 4, the claim is rejected for the same reasons as claim 1, above. In addition, Ciarlante discloses linking program is part of said network listening program (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

11. As per claim 5, the claim is rejected for the same reasons as claim 1, above. In addition, Ciarlante discloses network listening program comprises a web server (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

12. As per claim 6, the claim is rejected for the same reasons as claim 1, above. In addition, Ciarlante discloses recording user information related to said each request (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

13. As per claim 7, the claim is rejected for the same reasons as claim 1,

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above. In addition, Ciarlante discloses auxiliary recording program supports billing programs that can bill for client usage of particular ones of said plurality of sites (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

14. As per claim 8, the claim is rejected for the same reasons as claim 1, above. In addition, Nishiyama discloses auxiliary recording program supports maintenance programs that improve server performance (col 7, lines 1-4).

15. As per claim 9, the claim is rejected for the same reasons as claim 1, above. In addition, Ciarlante discloses a linking program communicates requests and responses between a one of said plurality of sites and said client after a first request is handled by said network listener program (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

16. As per claim 10, the claim is rejected for the same reasons as claim 1, above. In addition, Ciarlante discloses said access control manager program spawns said linking program based on a said first request program (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

17. As per claim 11, the claim is rejected for the same reasons as claim 1,

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above. In addition, Ciarlante discloses said software application is a database application (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

18. As per claim 14, the claim is rejected for the same reasons as claim 1, above.

19. As per claim 15, the claim is rejected for the same reasons as claim 1, above. In addition, Ciarlante discloses allowing said one version to process said information from said request and formulate a response responsive thereto, and returning said response to said user (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

20. As per claim 16, the claim is rejected for the same reasons as claims 1 and 14, above. In addition, Ciarlante discloses said returning step comprises: passing said response to a communications program and communicating by said communications program information from said response to said user (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

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21. As per claim 17, the claim is rejected for the same reasons as claims 1 and 14, above. In addition, Ciarlante discloses spawning (instances, 40, fig 2)an independent communications process for handling communications between said site and said user (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 20).

22. As per claim 18, the claim is rejected for the same reasons as claims 1 and 14, above. In addition, Ciarlante discloses sending information identifying said user as having been connected to said one site to an auxiliary program (10, fig 1, col 4, lines 39-64; col 8, line 42 – col 9, line 2).

23. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ciarlante and Nishiyama as applied to claim 1 above, and further in view of Bryan et al. (6,591,418) (hereinafter Brayn).

24. As per claim 2, Ciarlante and Nishiyama do not disclose said table is a registry in a Microsoft Windows operating system. However, storing configuration in registry is well known in the art. Bryan discloses table is a registry in a Microsoft Windows operating system (col 7, lines 42-50). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Nishiyama and Ahmad with

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Bryan. The motivation would have been using NT registry to store the configuration data.

25. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ciarlante and Nishiyama as applied to claim 1 above, and further in view of Mutschler et al. (5,974,430) (hereinafter Mutschler).

26. As per claim 12, Ciarlante and Nishiyama fails to disclose said software application is the program called MAPPER available Unisys. However, Mutschler discloses said software application is the program called MAPPER substantially as presently available Unisys (col 6, lines 12-13). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Ciarlante and Nishiyama with Mutschler. The motivation would have been using Unisys Mapper (database) product.

Response to Arguments

27. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD A. SIDDIQI whose telephone number is (571)272-3976. The examiner can normally be reached on Monday -Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MAS

***/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2154***